

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 376**

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**Introduced by Senator Lara**

February 24, 2015

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~~An act to amend Section 10290.1 of the Public Contract Code, relating to public contracts. An act to amend Section 10507.7 of, and to add Section 10507.6 to, the Public Contract Code, relating to public contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 376, as amended, Lara. ~~Contracting by state agencies. Public contracts: University of California.~~

*Existing provisions of the California Constitution provide that the University of California constitutes a public trust and require the university to be administered by the Regents of the University of California (regents), a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes, including such competitive bidding procedures as may be applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Existing law requires the regents, except as provided, to let all contracts involving an expenditure of more than \$100,000 annually for goods and materials or services, excepting personal or professional services, to the lowest responsible bidder meeting certain specifications, or to reject all bids. Existing law, until January 1, 2018, also authorizes the bid evaluation and selection for these contracts to be determined by the best value.*

*This bill would require a bidder, to qualify as a lowest responsible bidder or best value awardee, to certify in writing to the University of*

*California (UC) that the bid includes a total employee compensation package that is valued on a per-employee basis at a level sufficient that it does not materially undercut the average per-employee value of total compensation for UC employees who perform comparable work at the relevant campus, medical center, or laboratory at which the bidder proposes to perform the work. The bill would require the UC to include in its request for proposals a calculation of the average per-employee value of total compensation for UC employees who perform comparable work at the relevant location, as prescribed. The bill, with respect to contracts for services, would remove personal services from the lowest responsible bidder requirement exemption and would require contracts for services involving an expenditure exceeding \$100,000 annually to include any renewals or extensions of the contract that will also result in an expenditure exceeding \$100,000 annually.*

~~Existing law authorizes state agencies, in exercising their delegation of contracting authority from the Department of General Services, to contract for specified items or services with suppliers who have multiple award schedules with the General Services Administration of the United States, as provided.~~

~~This bill would make nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *The Legislature finds and declares the following:*
- 2     (a) *It is a matter of statewide concern that responsible*
- 3     *competitive bidding at the University of California not undercut*
- 4     *the wages and benefits provided by the University of California*
- 5     *for comparable work, given that a significant percentage of*
- 6     *University of California employees already are eligible for public*
- 7     *benefits and any material decrease in the compensation of*
- 8     *employees performing such work would result in materially*
- 9     *increased General Fund costs for the provision of benefits.*
- 10    (b) *It is a matter of statewide concern that the University of*
- 11    *California not repeat past instances in which public resources*
- 12    *have been squandered via contracting out to for-profit private*
- 13    *contractors that charge significant administrative overhead.*
- 14    SEC. 2. *Section 10507.6 is added to the Public Contract Code,*
- 15    *to read:*

1     10507.6. *For the purposes of this article, to qualify as a lowest*  
2 *responsible bidder or best value awardee, a bidder shall certify*  
3 *the following in writing to the University of California:*

4     (a) *That the bid includes a total employee compensation*  
5 *package, including fringe benefits, that is valued on a per-employee*  
6 *basis at a level sufficient that it does not materially undercut the*  
7 *average per-employee value of total compensation, including fringe*  
8 *benefits, for employees of the University of California who perform*  
9 *comparable work at the relevant campus, medical center, or*  
10 *laboratory at which the bidder proposes to perform the work.*

11     (b) *The University of California shall implement this paragraph*  
12 *by including in its request for proposals a calculation of the*  
13 *average per-employee value of total compensation, including fringe*  
14 *benefits, for employees of the University of California who perform*  
15 *comparable work at the relevant campus, medical center, or*  
16 *laboratory, and that calculation shall use all known cost escalators*  
17 *to project the future rate of growth of average per-employee total*  
18 *compensation costs.*

19     SEC. 3. *Section 10507.7 of the Public Contract Code is*  
20 *amended to read:*

21     10507.7. (a) *Except as provided for in this article, the Regents*  
22 *of the University of California shall let all contracts involving an*  
23 *expenditure of more than one hundred thousand dollars (\$100,000)*  
24 *annually for goods and materials to be sold to the University of*  
25 *California to the lowest responsible bidder meeting specifications,*  
26 *or else reject all bids. Contracts for services to be performed, other*  
27 *than personal or professional services, involving an expenditure*  
28 *of one hundred thousand dollars (\$100,000) or more annually shall*  
29 *be made or entered into with the lowest responsible bidder meeting*  
30 *specifications, or else all bids shall be rejected. If the regents deem*  
31 *it to be for the best interest of the university, the regents may,*  
32 *regents, on the refusal or failure of the successful bidder for*  
33 *materials, goods, or services to execute a tendered contract, may*  
34 *award it to the second lowest responsible bidder meeting*  
35 *specifications. If the second lowest responsible bidder fails or*  
36 *refuses to execute the contract, the regents may likewise award it*  
37 *to the third lowest responsible bidder meeting specifications.*

38     (b) *For the purposes of this section, contracts for services*  
39 *involving an expenditure of one hundred thousand dollars*  
40 *(\$100,000) or more annually shall include any renewal or*

1 *extension of an existing contract, if the renewal or extension*  
2 *involves an expenditure of one hundred thousand dollars*  
3 *(\$100,000) or more annually.*

4 SECTION 1. Section 10290.1 of the Public Contract Code is  
5 amended to read:

6 10290.1. ~~(a) Notwithstanding any other provision of law, in~~  
7 ~~exercising its delegation of contracting authority from the~~  
8 ~~department, a state agency may contract for goods, information~~  
9 ~~technology, or services with suppliers who have multiple award~~  
10 ~~schedules with the General Services Administration of the United~~  
11 ~~States if the supplier is willing to extend those terms, conditions,~~  
12 ~~and prices. The department may also develop multiple award~~  
13 ~~schedules or agreements for use by state agencies in the same~~  
14 ~~manner.~~

15 (b) ~~The department shall determine the delegation contracting~~  
16 ~~authority for agencies wishing to contract with suppliers who have~~  
17 ~~multiple award schedules. The department shall seek input from~~  
18 ~~both customer departments and agencies and private sector~~  
19 ~~suppliers.~~